

3728
Lhw

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application:

Application No.:	09/036,219	Confirmation No.:	5243
Applicant:	Eric A. Belec et al.	Art Unit:	3724
Filed:	December 24, 2001	Examiner:	Ghassem Alie
Attorney Docket No.:	F-444		
Customer No.:	00919	Date:	April 4, 2005

PETITION TO WITHDRAW HOLDING OF ABANDONMENT
UNDER 37 CFR 1.181

Director,
Technology Center 3700
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

The above-identified Application became abandoned for allegedly failing to respond to the Final Office Action mailed January 20, 2004. Applicants submit that a Notice of Appeal (Appendix A) was submitted, via facsimile transmission, on May 19, 2004, together with the required Petition and Fee for a One Month Extension of Time. Further an Appeal Brief (Appendix B) was filed with a Certificate of Mailing on July 19, 2004. A copy of a receipt card (Appendix C) shows the physical receipt of the Appeal Brief by the USPTO on July 21, 2004.

In view of the above facts, as supported by the attached Appendices, the Applicants respectfully submit that there was no Abandonment in fact, and hereby petition for the withdrawal of the Notice of Abandonment mailed March 25, 2005 and action by the Examiner with respect to the pending Appeal Brief.

In accordance with MPEP 711.C3(c), Applicants submit that no Petition Fee is required. However, the USPTO is authorized to charge any required fees to Deposit Account 16-1885

Respectfully submitted,



Steven J. Shapiro
Reg. No. 35,677
Attorney of Record
Telephone (203) 924-3880

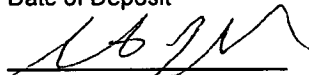
PITNEY BOWES INC.
Intellectual Property and
Technology Law Department
35 Waterview Drive
P.O. Box 3000
Shelton, CT 06484-8000

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Technology Center 3700
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Alexandria, VA 22313-1450

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Steven J. Shapiro
Name of Registered Rep.

April 4, 2005
Date

APPENDIX A

Auto-Reply Facsimile Transmission



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Fax Information

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Page

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Pitney Bowes

Pitney Bowes Inc.

Steven J. Shapiro
Assistant Deputy General Counsel

Intellectual Property & Technology
Law
35 Waterview Drive
P.O. Box 3000
Shelton, Connecticut 06484-5000

203-924-3800
203-924-3919 Fax
steve.shapiro@pb.com

Memorandum

To: Examiner Ghassem Ali
Group Art Unit 3724

Fax No.: 1-703-872-9306

From: Steven J. Shapiro
cc: C. Frederickson

Date: May 19, 2004

Subject: Serial No.: 10/036,219

Pages: 3 (Including this cover)

Re: U.S. Patent Application Serial No.: 10/036,219
Our Docket F-444

Enclosed please find the Notice of Appeal in connection with the above-referenced case.

PLEASE CONFIRM RECEIPT.

CERTIFICATE OF FACSIMILE TRANSMISSION

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Patent and Trademark Office
Attention: Ghassem Ali - Group Art Unit #3724
Facsimile No. (703) 872-9308

1. Notice of Appeal (2 pages).

On May 19, 2004
Date of Transmission

Signature

Steven J. Shapiro
Name of Registered Rep.
Reg. No.: 35,677

May 19, 2004
Date



Pitney Bowes Inc.

Steven J. Shapiro
Assistant Deputy General Counsel

Intellectual Property & Technology
Law

35 Waterview Drive
P.O. Box 3000
Shelton, Connecticut 06484-8000

203-924- 3880
203-924-3919 Fax
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Date of Transmission

Signature

Steven J. Shapiro
Name of Registered Rep.
Reg. No.: 35,677

May 19, 2004
Date



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of:) Date: May 19, 2004
Eric A. Belec et al.) Attorney Docket No.: F-444
Serial No.: 10/036,219) Customer No.: 00919
Filed: December 24, 2001) Group Art Unit: 3724
Confirmation No.: 5243) Examiner: Ghassem Alie
Title: MAILPIECE PERFORATING/CUTTING SYSTEM

**NOTICE OF APPEAL FROM THE PRIMARY EXAMINER
TO THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant hereby appeals to the Board of Patent Appeals and Interferences from the decision of the Primary Examiner dated May 7, 2004, finally rejecting claim 8.

Pursuant to 37 CFR 1.17(b), the fee for filing the Notice of Appeal is \$330.00.

Applicant petitions for a one-month extension of time under 37 CFR 1.136. The fee for a one-month extension of time is \$110.00.

The total fee due is:

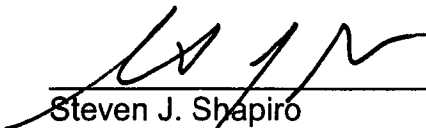
Notice of Appeal Fee:	\$330.00
Extension of Time Fee:	\$110.00
Total Fee Due:	\$440.00

Please charge Deposit Account No.: **16-1885** in the amount of \$440.00 to cover the above fees.

The Commissioner is hereby authorized to charge any additional fees which may be required or credit any overpayment to Deposit Account No. **16-1885**.

A duplicate copy of this transmittal is enclosed for use in charging the Deposit Account.

Respectfully submitted,



Steven J. Shapiro
Reg. No. 36,677
Attorney of Record
Telephone (203) 924-3880

PITNEY BOWES INC.
Intellectual Property and
Technology Law Department
35 Waterview Drive
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Shelton, CT 06484-8000

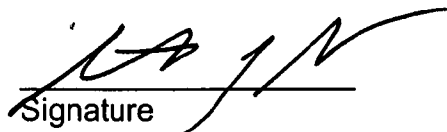
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Date of Transmission

Steven J. Shapiro
Name of Registered Rep.



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May 19, 2004
Date

** JOB STATUS REPORT **

AS OF MAY 19, 2004 13:31

PAGE. 01

INTELLECTUAL PROPERTY

JOB #885

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APPENDIX B



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of:) Date: July 19, 2004
Eric A. Belec et al.) Attorney Docket No.: F-444
Serial No.: 10/036,219) Customer No.: 00919
Filed: December 24, 2001) Group Art Unit: 3724
Confirmation No.: 5243) Examiner: Ghassem Alie
Title: MAILPIECE PERFORATING/CUTTING SYSTEM

AMENDMENT TRANSMITTAL LETTER

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

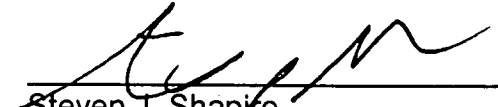
Sir:

Transmitted herewith is an Amendment After Final Rejection in the above-identified application. The fee has been calculated as shown below.

	Claims Remaining After Amendment	-	Highest Number Previously Paid For	=	Number of Extra Claims Present	X	Rate	=	Additional Fee
Total Claims	1	-	9	=	0	X	\$18.00	=	0.00
Independent Claims	1	-	5	=	0	X	\$86.00	=	0.00
TOTAL ADDITIONAL FEE FOR THIS AMENDMENT									0.00

No additional fee is required.

Please charge any additional fees or credit overpayment to Deposit Account Number
16-1885.


Steven J. Shapiro
Reg. No. 35,677
Attorney of Record
Telephone (203) 924-3880

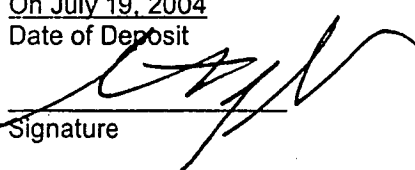
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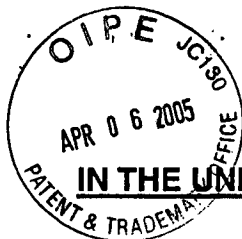
Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

On July 19, 2004
Date of Deposit


Signature

Steven J. Shapiro
Name of Registered Rep.

July 19, 2004
Date



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application:

Appl. No. : 09/036,219 Confirmation No.: 5243
Applicant : Eric A. Belec et al.
Filed : December 24, 2001
Art Unit : 3724
Examiner : Ghassem Alie
Attorney Docket No. : F-444
Customer No. : 00919 Date: July 19, 2004

AMENDMENT AFTER FINAL REJECTION

Mail Stop Non-Fee Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Final Office Action dated January 21, 2004, please amend the above-identified patent application as follows:

- **Amendments to the Claims** are reflected in the listing of claims which begins on page 2 of this paper.
- **Remarks/Arguments** begin on page 3 of this paper.

CERTIFICATE OF MAILING

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Mail Stop Non-Fee Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

On July 19, 2004
Date of Deposit

Signature

Steven J. Shapiro
Name of Registered Rep.

July 19, 2004
Date

Amendments to the Claims:

This listing of claims will replace all prior versions, and listings, of claims in the application:

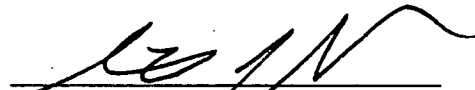
Listing of Claims:

8. (currently amended) A device for cutting mailpieces, the device comprising:
- a first cutter wheel having a first cutting edge;
 - a second cutter wheel having a second cutting edge, the second cutting edge having a plurality of notches therein and vertical cutting edges that are substantially perpendicular to the second cutting edge and extend downward from the second cutting edge, each of the plurality of notches having a pair of the vertical cutting edges each of which is disposed along a corresponding side of each of the plurality of notches;
 - a backing member; and
 - means for driving the first and second cutter wheels and the backing member into rotation;
- wherein the first and second cutter wheels are positioned to define a first cutting nip between the first and second cutting edges and the vertical edges and the backing member define a second cutting nip therebetween such that at times when a mailpiece passes through the first cutting nip the interaction of the first and second cutting edges make a first cut in the mailpiece except when the plurality of notches are present at the first cutting nip and when the mailpiece passes through the second cutting nip the vertical edges make a second cut in the mailpiece substantially perpendicular to the first cut whereby after the mailpiece has completely passed through the first and second cutting nips it has an edge having a castellated appearance including opened edge portions and unopened edge portions.

Remarks/Arguments

Claim 8 is currently pending in the application. Claim 8 has been amended solely for the purpose of adding the word "first" to correct a minor informality highlighted by the Examiner in the Final Office Action. Applicants inadvertently failed to correct the informality in the last-filed response but request entry by the Examiner since the requested change does not present any new issues that would require additional search or examination time by the Examiner. Further, entry of the amendment reduces the issues for appeal by eliminating the outstanding 35 U.S.C. 112, second paragraph, rejection of claim 8. Entry of this amendment is respectfully requested.

Respectfully submitted,



Steven J. Shapiro
Reg. No. 35,677
Attorney of Record
Telephone (203) 924-3880

PITNEY BOWES INC.
Intellectual Property and
Technology Law Department
35 Waterview Drive
P.O. Box 3000
Shelton, CT 06484-8000

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of:) Date: July 19, 2004
Eric A. Belec et al.) Attorney Docket No.: F-444
Serial No.: 09/036,219) Customer No.: 00919
Filed: December 24, 2001) Group Art Unit: 3724
Confirmation No.: 5243) Examiner: Ghassem Alie
Title: MAILPIECE PERFORATING/CUTTING SYSTEM

TRANSMITTAL OF APPEAL BRIEF (PATENT APPLICATION 37 CFR 1.192)

Mail Stop Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Transmitted herewith in **triplicate** is the **APPEAL BRIEF** in the above-identified patent application with respect to the Notice of Appeal filed on May 19, 2004.

Pursuant to 37 CFR 1.17(c), the fee for filing the Appeal Brief is \$330.00

The total fee due is:

Appeal Fee: \$330.00

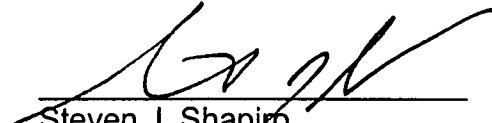
Total Fee Due: \$330.00

Please charge Deposit Account No. **16-1885** in the amount of \$330.00 to cover the above fees.

The Commissioner is hereby authorized to charge any additional fees which may be required to Deposit Account No. **16-1885**.

A duplicate copy of this transmittal is enclosed for use in charging the Deposit Account.

Respectfully submitted,


Steven J. Shapiro
Reg. No. 35,677
Attorney of Record
Telephone (203) 924-3880

PITNEY BOWES INC.
Intellectual Property and
Technology Law Department
35 Waterview Drive
P.O. Box 3000
Shelton, CT 06484-8000

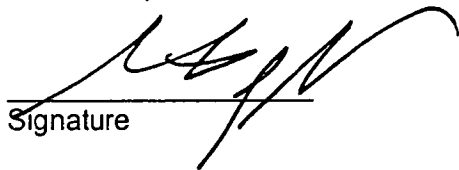
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Signature



Steven J. Shapiro
Name of Registered Rep.

July 19, 2004
Date

PATENT

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE
BOARD OF APPEALS AND PATENT INTERFERENCES**

In re patent application of:) Date: July 19, 2004
Eric A. Belec et al.) Attorney Docket No.: F-444
Serial No.: 09/036,219) Customer No.:00919
Filed: December 24, 2001) Group Art Unit: 3724
Confirmation No.: 5243) Examiner: Ghassem Alie
Title:	MAILPIECE PERFORATING/CUTTING SYSTEM

BRIEF ON APPEAL

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This Appeal Brief, under 37 C.F.R. Section 1.192, is being filed in triplicate. The Appeal Fee in the amount of \$330.00 should be charged to deposit account number 16-1885, per Transmittal of Appeal Brief enclosed herewith. If the fees for this appeal are deemed to be insufficient, authorization is hereby given to charge any deficiency (or credit any balance) to deposit account number 16-1885.

REAL PARTY IN INTEREST

The real party in interest is Pitney Bowes Inc. which acquired all rights to the above-identified application by way of an assignment which was recorded in the Assignment Branch of the United States Patent and Trademark Office on June 4, 2002, at Reel 012969 and Frame 0885.

RELATED APPEALS AND INTERFERENCES

There are no related Appeals or Interferences which will directly affect or be directly affected by or have a bearing on the Board's decision in the instant appeal.

STATUS OF CLAIMS

This Application is on Appeal, pursuant to 35 U.S.C. Section 134, from the rejection of claims 1 and 8 dated January 21, 2004. The instant application was originally filed with claims 1-9. An Election of Claims was filed on June 1, 2003, electing claims 1-2 and 8. In the Amendment filed October 31, 2003, claims 1 and 8 were amended and claim 2 was cancelled. In the Amendment After Final filed on April 16, 2004, claim 1 was cancelled and claim 8 was amended. In an advisory action mailed May 7, 2004, the Examiner indicated that the Amendment After Final filed on April 16, 2004, would be entered for purposes of Appeal. Accordingly, claim 8 is currently pending.

STATUS OF AMENDMENTS

An Amendment After Final is being filed concurrently herewith to correct a minor informality in claim 8. This Amendment After Final obviates an outstanding rejection of claim 8 under 35 U.S.C. 112, second paragraph, that was erroneously not corrected in the last response. Since the Amendment After Final is consistent with the Arguments set forth by the Applicants and doesn't require additional search time by the Examiner or raise any new substantive issues, Applicants have assumed for the purposes of this brief that it will be entered. Accordingly, pending claim 8 is being appealed and is set forth in Appendix A.

SUMMARY OF THE INVENTION

The instant invention is directed to a device for cutting a mailpiece 87 that results in the mailpiece 87 having a castellated appearance at its bottom edge, as shown in Figure 12. The castellated mailpiece 87 has uncut edge segments 869 which retain the contents of the mailpiece therein while the edge openings 867

permit any powder material to pass therethrough during a subsequent jogging or compression/decompression operation applied to the castellated mailpiece 87. This inventive cutting device thus provides an efficient way for potential contaminants that are being processed through the mail to be easily detected. Such detection is considered very important in view of recent events where biological agents were sent via the mail to Congress.

As reflected in Figure 12, the inventive device includes a cutter wheel 859 that having vertically extending cutting edges 861 at each side of notches 855. Further, the device includes a circular urethane wheel 862 (backing member) that has been mounted on shaft 845 directly below a cutter wheel 805 to rotate therewith. Accordingly, as the mailpieces 87 pass between a nip 863, defined between the outer edge 847 of cutter wheel 859 and the outer edge 849 of cutter wheel 805, the mailpiece is cut in the manner shown in Figure 11 to cut slits 851. However, as the mailpiece 87 passes between the nip defined between the cutting edges 861, that extend vertically down from the outer edge 847, and the backing member 862, the bottom of the mailpiece 87 is cut in a castellated appearance as shown in Figure 12. The result is that the mailpiece 87 has a plurality of segments 865 of the lower edge 864 removed to produce a plurality of edge openings 867 through which any powder material inside the mailpiece can pass while the non-opened portions 869 of the mailpiece 87 keep the contents of the mailpiece 87 contained therein.

ISSUES

At issue in this Appeal is the propriety of the rejection of claim 8 under 35 U.S.C. 102(b) as being anticipated by Yamauchi (U.S. Patent No. 6,119,568).

GROUPING OF THE CLAIMS

Claim 8 stands or falls by itself.

ARGUMENTS

In order for a rejection under 35 U.S.C. 102(b) to be valid, each and every element of the claimed invention must be taught by the prior art. In re *Bond*, 910 F.2d 831, 15 USPQ 2d 1566 (Fed. Cir. 1990). In the instant rejection, the Examiner admits that there is no teaching or suggestion that the cutting device of Yamauchi is configured in a manner to produce the claimed castellated appearance in the mailpiece as claimed. The Examiner simply states that the Yamauchi device "is capable" of creating a castellated appearance. The problem with this logic is that the Examiner is making this statement based on the teachings of the Applicants' specification and not on anything taught or suggested in the Yamauchi patent itself. Such hindsight use of the Applicants' teachings to provide the missing limitation of a reference is not permissible.

In addition to the above, the claimed second cutter wheel has vertical cutting edges 861 that extend perpendicular to and downward from the cutting edge of the cutter wheel 859. Yamauchi does not teach or suggest such vertical cutting edges. In Yamauchi, the Examiner refers to the edges 23, 24 of recess 21 as being the claimed vertical cutting edges. However, such is not the case. The edges 23, 24 do not extend downward from the cutting edge (no numeral) of the cutter wheel 18 but are contiguous therewith since they are the sides of the recess 21 formed on the cutting edge of cutter wheel 18. Put in another way, they are not a separate cutting surface from that of cutter wheel 18 but only reflect the thickness of cutter wheel 18. This is completely different than the claimed vertical cutting edges 861 which extend downward from the cutting edge 847 beyond its thickness. The Yamauchi device has a cutting wheel 18 that is similar to the cutting wheel 803 of the instant specification as shown in Figure 10 of the instant application. Cutter wheel 803 has a cutting edge 847 which has notches 855 cut therein. These notches 855 form a notched surface that is part of the cutting edge 847 and are contiguous therewith but do not have any separate vertical cutting

edges that extend downward from the edge 847 as the cutting edges 861 of Figure 12. This configuration produces the slits 851 in the mailpiece of Figure 11 which are similar to the elongated holes 7 of Yamauchi. Thus, as stated in Yamauchi, at column 6 lines 45-52, the cutter wheel 18 (including its recesses 21) only cut the sheet 2 to form the sides of the elongated hole 7. In order to cut the vertical portions of elongated hole 7, recess 21 interacts with an engaging portion 35 of cutter 32 to create the final elongated hole 7. Yamauchi never discusses creating a castellated edge appearance.

It is submitted that Yamauchi does not teach or suggest the claimed vertical cutting edges of the second cutter wheel that are substantially perpendicular to the second cutting edge and extend downward therefrom. Yamauchi also does not teach or suggest the claimed second nip defined between the backing member and the vertical cutting edges which is positioned relative to a mailpiece to create a castellated appearance in an edge of a mailpiece. The Examiner cannot render the claimed invention obvious because, in his opinion, after reviewing the Applicants' specification, he believes the applied reference could be used in a manner to create a castellated appearance even though Yamauchi doesn't teach or suggest such use. The Applicants' claimed interaction of its cutter wheels to produce the castellated mailpiece is clearly directed to patentable subject matter not taught by the applied references.

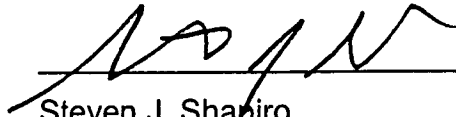
For the reasons set forth above, it is submitted that Claim 8 is neither anticipated by nor rendered obvious in view of Yamauchi.

SUMMARY

It is submitted for each of the reasons enumerated above that claim 8 is not anticipated by the applied references. Accordingly, the Appellants respectfully

request that the Board reverse the Examiner with respect to the 35 U.S.C. 102(b) rejection of claim 8 that is set forth in the Final Office Action.

Respectfully submitted,



Steven J. Shapiro
Reg. No. 35,677
Attorney of Record
Telephone (203) 924-3880

PITNEY BOWES INC.
Intellectual Property and
Technology Law Department
35 Waterview Drive
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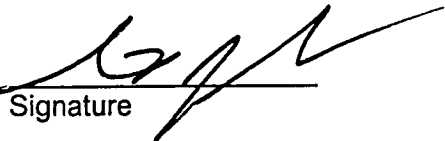
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On July 19, 2004
Date of Deposit

Steven J. Shapiro (35,677)
Name of Registered Rep.


Signature

July 19, 2004
Date

APPENDIX A

8. A device for cutting mailpieces, the device comprising:
- a first cutter wheel having a first cutting edge;
 - a second cutter wheel having a second cutting edge, the second cutting edge having a plurality of notches therein and vertical cutting edges that are substantially perpendicular to the second cutting edge and extend downward from the second cutting edge, each of the plurality of notches having a pair of the vertical cutting edges each of which is disposed along a corresponding side of each of the plurality of notches;
 - a backing member; and
 - means for driving the first and second cutter wheels and the backing member into rotation;
- wherein the first and second cutter wheels are positioned to define a first cutting nip between the first and second cutting edges and the vertical edges and the backing member define a second cutting nip therebetween such that at times when a mailpiece passes through the first cutting nip the interaction of the first and second cutting edges make a first cut in the mailpiece except when the plurality of notches are present at the first cutting nip and when the mailpiece passes through the second cutting nip the vertical edges make a second cut in the mailpiece substantially perpendicular to the first cut whereby after the mailpiece has completely passed through the first and second cutting nips it has an edge having a castellated appearance including opened edge portions and unopened edge portions.

APPENDIX C

Honorable Commissioner of Patents & Trademarks
Washington, D.C. 20231

F-444
SJS/asa
7/19/04

Sir:

Kindly acknowledge receipt of the following:

Amendment Transmittal Letter (original + 1 copy); Amendment After
Final Rejection; Transmittal of Appeal Brief (original + 1 copy); Appeal
Brief (in triplicate) in Patent Application Titled: **MAILPIECE**
PERFORATING/CUTTING SYSTEM, Inventor: Eric A. Belec et al.
S.N.:10/036,219, Filed: December 24, 2001

b1
TI

Honorable Commissioner of Patents & Trademarks
Washington, D.C. 20231

F-444
SJS/asa
7/19/04

Sir:

Kindly acknowledge receipt of the following:

Amendment Transmittal Letter (original + 1 copy); Amendment After
Final Rejection; Transmittal of Appeal Brief (original + 1 copy); Appeal
Brief (in triplicate) in Patent Application Titled: **MAILPIECE**
PERFORATING/CUTTING SYSTEM, Inventor: Eric A. Belec et al.
S.N.:10/036,219, Filed: December 24, 2001

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